

OPEN MEETING ITEM

COMMISSIONERS  
GARY PIERCE - Chairman  
BOB STUMP  
SANDRA D. KENNEDY  
PAUL NEWMAN  
BRENDA BURNS

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ARIZONA CORPORATION COMMISSION

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DATE: MAY 5, 2011

DOCKET NO.: W-03948A-06-0490

ARIZONA CORPORATION COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

MAY 5 2011

DOCKETED BY

*[Signature]*

TO ALL PARTIES:

Enclosed please find the recommendation of Administrative Law Judge Jane Rodda.  
The recommendation has been filed in the form of an Order on:

EMPIRITA WATER COMPANY, LLC  
(EXTENSION OF TIME DEADLINE CONTAINED  
IN DECISION NOS. 69399, 70476, AND 71222)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

MAY 16, 2011

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

MAY 24, 2011 and MAY 25, 2011

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

*[Signature]*  
ERNEST G. JOHNSON  
EXECUTIVE DIRECTOR

1200 WEST WASHINGTON STREET; PHOENIX, ARIZONA 85007-2927 / 400 WEST CONGRESS STREET; TUCSON, ARIZONA 85701-1347

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This document is available in alternative formats by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602-542-3931, E-mail SABernal@azcc.gov

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 GARY PIERCE - Chairman  
4 BOB STUMP  
5 SANDRA D. KENNEDY  
6 PAUL NEWMAN  
7 BRENDA BURNS

8 IN THE MATTER OF THE APPLICATION OF  
9 EMPIRITA WATER COMPANY, L.L.C. FOR AN  
10 EXTENSION OF ITS CERTIFICATE OF  
11 CONVENIENCE AND NECESSITY.

DOCKET NO. W-03948A-06-0490

DECISION NO. \_\_\_\_\_

12 ORDER

13 Open Meeting  
14 May 24 and 25, 2011  
15 Phoenix, Arizona

16 **BY THE COMMISSION:**

17 \* \* \* \* \*

18 Having considered the entire record herein and being fully advised in the premises, the  
19 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

20 FINDINGS OF FACT

21 1. In Decision No. 69399 (March 29, 2007), the Commission issued an "Order  
22 Preliminary" to the issuance of a Certificate of Convenience and Necessity ("CC&N") for Empirita  
23 Water Company LLC ("Empirita" or "Company").

24 2. As part of Decision No. 69399, the Commission ordered Empirita to file "copies of the  
25 AOC issued by ADEQ for the water plant additions needed to serve the Redhawk II development  
26 within one year of the effective date of the order granting the CC&N."

27 3. Decision No. 70476 (September 3, 2008) granted the CC&N to Empirita, and thus the  
28 due date for Empirita to file copies of its Approval of Construction ("AOC") for the Redhawk II  
development was established as September 3, 2009.

4. On April 16, 2009, Empirita sought a two-year extension of time to file the AOC for  
Redhawk II. The Commission granted the extension, until September 3, 2011, in Decision No. 71222  
(August 6, 2009).

1           5.       On March 3, 2011, Empirita filed a subsequent "Motion for Further Extension of  
2 Compliance Filing Date Deadline," requesting that the Commission extend the due date for filing the  
3 AOC for the Redhawk II development from September 3, 2011, until September 3, 2013. The  
4 Company cited the continuing effects of the economic recession in Arizona which has resulted in a  
5 dramatic decline in new home construction and delayed the development timetable for the Redhawk  
6 II development as the cause for another extension. The Company attached a letter from the  
7 developer, Redhawk at J-6 Ranch, dated March 2, 2011, that confirms the developer's continued  
8 intent to develop the property and its continuing need for service from Empirita.

9           6.       On April 12, 2011, the Commission's Utilities Division ("Staff") filed a Memorandum  
10 that states that Staff does not object to the Company's proposed extension until September 3, 2013, to  
11 provide the AOC for the water plant additions needed to serve the Redhawk LL development. Staff  
12 recommends that the due date for the AOC be extended to September 3, 2013, and that no further  
13 extensions be granted in this matter.

14           7.       In its Motion, Empirita states that it has already completed construction of a 150,000  
15 gallon storage reservoir to provide water service to future residents of the Redhawk II subdivision,  
16 and that all that remains to activate the system is: (i) installation of pumps, pipes and electric  
17 equipment; and (ii) enclosure of the storage reservoir, for an estimated cost of \$60,000. Empirita  
18 states that it prefers not to proceed with such expenditures until there is an immediate need for the  
19 facilities.

20           8.       Under the circumstances as reported in the Motion, Empirita's requested extension it  
21 is reasonable.

#### CONCLUSIONS OF LAW

22  
23           1.       Empirita is a public service corporation within the meaning of Article XV of the  
24 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

25           2.       The Commission has jurisdiction over Empirita and the subject matter of the motion.

26           3.       An extension of time to comply with the requirements of Decision No. 69399, as  
27 discussed herein, is fair and reasonable and in the public interest.

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ORDER

IT IS THEREFORE ORDERED that that the deadline for Empirita Water Company, LLC to file the Approval of Construction, as required by Decision Nos. 69399, 70476, and 71222 is extended to September 3, 2013.

IT IS FURTHER ORDERED that all other provisions of Decision Nos. 69399 and 70476 shall remain in effect.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN		COMMISSIONER
COMMISSIONER	COMMISSIONER	COMMISSIONER

IN WITNESS WHEREOF, I, ERNEST G. JOHNSON, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
ERNEST G. JOHNSON  
EXECUTIVE DIRECTOR

DISSENT \_\_\_\_\_

DISSENT \_\_\_\_\_

1 SERVICE LIST FOR: EMPIRITA WATER COMPANY, LLC

2 DOCKET NO.: W-03948A-06-0490

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